

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

SNYDER'S-LANCE, INC. and
PRINCETON VANGUARD, LLC,

Plaintiffs,

v.

FRITO-LAY NORTH AMERICA,
INC.,

Defendant.

Case No. 3:17-CV-00652

DECLARATION OF SALVATORE D'AGOSTINO

I, Salvatore D'Agostino, declare as follows:

1. I am over the age of 18 and competent to testify. I have personal knowledge of the matters stated in this declaration and would testify truthfully to them if called upon to do so.

2. In November 2010, I submitted a declaration in connection with proceedings before Trademark Trial and Appeal Board. In my prior declaration, I stated that before the appearance of Pretzel Crisps in 2004, I was aware of no other product using the term or mark PRETZEL CRISPS. This remains true today. This declaration updates the information I provided in 2010.


3. I am the Vice President of World Wide Sales, a leading broker of perishable foods in the Northeastern United States. I have worked in the food brokerage business for nearly 20 years. World Wide Sales services approximately 45 manufacturers and producers of deli snacks, salads, cheeses, meats, and other foods. These goods appear in 1,500 supermarkets from Baltimore to Connecticut, as well as in hundreds of smaller food retailers.

4. I began working with Snack Factory as a broker of Pretzel Crisps brand crackers in 2004, and I have worked with Snyder's-Lance since it acquired the brand in 2012. Over that time, the brand has steadily grown, usually reaching around \$5 million in wholesale sales per year. Through September of this year alone, World Wide Sales brokered the sale of approximately \$3.5 million worth of Pretzel Crisps on behalf of Snack Factory.

5. Pretzel Crisps is prominently known throughout the industry as a brand, and not as a type of product like bagel chips, pita chips, or other generic categories of deli snacks. As was the case in 2010, consumers refer to the category of products to which Pretzel Crisps belong as "crackers," or more generally, "deli snacks." As also was the case in 2010, major supermarket chains routinely advertise Pretzel Crisps in their in-store circulars, and these advertisements always refer exclusively to Pretzel Crisps as a brand put out by Snyder's-Lance.

I declare under the penalty of perjury, that the foregoing is true and correct.

Executed on this 29th day of October, 2018, in Clifton, New Jersey.


Salvatore D Agostino
Vice President
World Wide Sales

CERTIFICATE OF SERVICE

I do certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record or interested parties via the CM/ECF system.

This 29th day of October, 2018.

ELLIS & WINTERS LLP

/s/ Jonathan D. Sasser

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